Supreme Court, U.S.
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90-1259

Case No._____
SUPREME COURT OF THE UNITED STATES
1991

THE PEOPLE OF THE
STATE OF ILLINOIS
Appellee,

Vs.

LAWRENCE C. REDMOND, JR.
Appellant.

PETITION FOR WRIT OF CERTIORARI FROM THE SUPREME COURT OF THE STATE OF ILLINOIS

PETITION FOR WRIT OF CERTIORARI

L. C. REDMOND, JR.
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Pro Se

ISSUES PRESENTED FOR REVIEW

I. Whether the State of Illinois had a compelling state interest in passing a statute preventing the use of tinted windows.

POINTS AND AUTHORITIES

I. INDIVIDUAL'S PROPERTY RIGHTS MAY YIELD TO POLICE POWER OF THE STATE.

People v. John Doe of Rosehill Cemetery Co., 334 Ill. 555, 166 N.E. 112.

II. USE OF POLICE POWER REQUIRES SHOWING OF DANGER TO HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE STATE.

Contemporary Music v. Chicago Park Dist., 57 Ill. App. 3d 182. United States Brewing Co. v. Village of Alsip, 81 Ill. App. 2d 235, 225 N.E.2d 430 (1967).

JURISDICTION

Judgment entered by the Illinois Supreme Court on October 3, 1990.

This petition is submitted pursuant to Title 28, United States Code, Section 1257, Subparagraph (2).

CONSTITUTIONAL PROVISIONS AND STATUES INVOLVED

14th Amendment to the United States Constitution.

Section 1. . . . nor shall any State deprive any person of life, liberty, or property, without due process of law; . . .

Illinois Vehicle Code, ch. 95 1/2, par. 12-503(a) as amended.

Windshields must be unobstructed and equipped with wipers. (a) No person shall drive a motor vehicle with any sign poster, window application, reflective material, nonreflective material or tinted film upon the front windshield, sidewings or side windows immediately adjacent to

each side of the driver. A nonreflective tinted film may be used along the uppermost portion of the windshield if such material does not extend more than 6 inches down from the top of the windshield. Nothing in this section shall create a cause of action on behalf of a buyer against a dealer or manufacturer who sells a motor vehicle with a window which is in violation of this section.

Illinois Vehicle Code, ch. 95 1/2, par. 12-503(a) not amended.

Windshields must be unobstructed and equipped with wipers. (a) No person shall drive a motor vehicle with any sign, poster, window application, reflective material or nonreflective material upon the front windshield, sidewings or side windows immediately adjacent to each side

of the driver which materially obstructs, obscures or impairs the view from both within or without the vehicle. A tinted film may be used along the upper portion of the windshield if such material does not extend more than 6 inches down from the top.

STATEMENT OF FACTS

On March 25, 1989, defendant was heading south on the I-55 by mile post 171 where he was stopped by Trooper Kimberly A. Cochran, and issued a traffic citation for having tinted windows. (Trial transcript (hereinafter "T") pp. 1 - 3)

Prior to trial, defendant, pursuant to Supreme Court Rule 216, issued Requests for Admissions of Fact to Illinois State Senator Judy Baar Topinka; Al Kroner, Senate GOP Staff - Transportation Committee; and John D. Blair, Chief, Traffic Statistics Unit, Division of Traffic Safety, Illinois Department of Transportation. Copies of the Requests for Admissions were issued to the court by certified mail. (Court record (hereinafter "C") pp. 12, 14) There is no record that the Request for Admission sent

to Senator Topinka was filed with the court, but the return receipt for that Request is part of the court record. (C. 26)

Senator Topinka mailed an Objection for Admission of Fact to the defendant, but there is no evidence that the objection was filed with the court. Al Kroner mailed an Objection for Admission of Fact to the defendant, but there is no evidence that the objection was filed with the court. Phillip Casey, Assistant State's Attorney, filed an objection on Al Kroner's behalf, but there is no evidence that Mr. Casey attempted to find the answers to the questions posed, nor any statement of reasons why he made no attempt. John D. Blair made no objection. Again, Mr. Casey mailed a Response to Request for Admission of Fact to the defendant on Mr. Blair's behalf, but the

response was not filed with the court, and, again, there is no evidence that Mr. Casey attempted to find the answers to the questions posed, nor any statement of reasons why he made no attempt.

At trial, defendant offered no evidence to refute the claim that he had tinted windows. (T. 6) He did, however, assert that the statute prohibiting tinted windows was unconstitutional, and was granted an offer of proof. (T. 6) Defendant motioned to have admitted into evidence the Requests for Admissions of Fact, but the court was unaware that the requests had been issued. (T. 5) The court then allowed the defendant to mark for admission into evidence his own copies of the requests and corresponding responses, (T. 5) and allowed arguments as to the constitutionality of the statute in question. (T. 6) After the State

argued for the constitutionality of the statute, the defendant argued against. (T. 7) The defendant again motioned to have the Requests for Admissions of Fact admitted into evidence, (T. 7) and the court accepted them. (T. 8) The court found that the passing of the statute prohibiting tinted windows was a valid exercise of police power by the State Legislature, and found the defendant guilty of violating said statute.

The defendant appealed to the Appellate Court of Illinois, Fourth District, arguing that the State exceeded the scope of its police power in passing a statute prohibiting the use of tinted windows. The court applied an equal protection reasonableness test relying on People v. Hagen and Consolidated Freightways v. Kassel, and ruled against the defendant. The defendant appealed to the Illinois

Supreme Court. On October 3, 1990, the appeal was denied.

ARGUMENT

The real issue in this case is gun control, or rather, the lack thereof.

An Illinois State Trooper was shot in the chest by a man whose weapon was not visible through the tinted windows of his automobile. Rather than introducing a bill for the stricter control of the sale of guns, the State Senator from the trooper's district introduced a bill to ban tinted film on the windows adjacent to the driver. The statute was passed as a visceral response to a serious crime, or perhaps the Senator was taking political advantage of an emotional situation. But the constitutionality of the amendment to the tinted window statute was not considered. Also, the fact that the trooper could still be shot by someone in the back seat of the car where the tint is

still permissible, or from a van with opera windows, or from a high riding pickup truck, was ignored.

This court should grant a Writ of Certiorari and overturn the amended statute, so that the State of Illinois will be forced to deal with the real issue confronting the People. By banning tinted windows, the real issue is being avoided, and the rights of gun owners are being favored over those of law abiding people with tinted windows.

APPENDIX

No. 4-89-0893

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. LAWRENCE C. REDMOND, JR., Defendant-Appellant.	) Appeal from Circuit Court County of McLean No. 896608)))))) Honorable William D. DeCardy, Judge Presiding.

ORDER

Pro se defendant, Lawrence C. Redmond, Jr., challenges the constitutionality of the prohibition against tinted windows in motor vehicles under the Illinois Vehicle Code (Code). (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 12-503(a).) We affirm.

The facts of this case are

undisputed. On March 25, 1989, defendant was issued a traffic citation for the petty offense of driving a motor vehicle with tinted front side windows on a highway in downstate Illinois. (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 12-503(a).) Defendant thereafter elected to challenge the traffic citation in the circuit court of McLean County, Illinois.

At trial, defendant made no effort to the (sic) refute the evidence of the prosecution. Instead, defendant argued the prohibition against tinted windows in motor vehicles was unconstitutional. Defendant maintained the Illinois legislature exceeded the scope its (sic) police authority because there was no statistical evidence available to support the statutory prohibition. The circuit court treated the argument of defendant as a motion to dismiss the traffic citation. (Ill. Rev. Stat. 1987, ch. 38, par. 114-

1.) The circuit court summarily denied the motion. On November 17, 1989, the circuit court found defendant guilty as charged and imposed a $50 fine on the traffic citation. Defendant now appeals.

On appeal, defendant contends the circuit court erred in denying his challenge to the constitutionality of the window-tint prohibition in the Code. (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 12-503(a).) We disagree.

The legislature did not exceed the scope of its police authority in enacting the statutory prohibition against tinted windows in motor vehicles. The legislature is empowered to promulgate any regulation reasonably necessary to ensure the safety of public highway travel in Illinois. (Consolidated Freightways Corp. v. Kassel (8th Cir. 1984), 730 F.2d 1139, 1147.) The legislature determined this statutory prohibition was necessary to

protect the safety of law enforcement personnel who must routinely stop and approach motor vehicles in the course of their investigatory duties. (People v. Hagen (1989), 191 Ill. App. 3d 265, 267, 547 N.E.2d 577, 579.) Accordingly, we conclude the circuit court did not err in denying the challenge of defendant to the constitutionality of the window-tint prohibition in the Code. Ill. Rev. Stat. 87, ch. 95 1/2, par. 12-503(a).

The judgment of the McLean County circuit court is affirmed.

KNECHT, P.J. with GREEN and MCCULLOUGH, JJ., concurring.

ILLINOIS SUPREME COURT
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October 3, 1990

Mr. L. C. Redmond, Jr.
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No. 70280 - People State of Illinois, respondent, v. Lawrence C. Redmond, Jr., petitioner. Leave to appeal, Appellate Court, Fourth District.

The Supreme Court today DENIED the petition for appeal as a matter of right or leave to appeal in the above entitled cause.

The mandate of this court will issue to the Appellate Court on October 25, 1990.